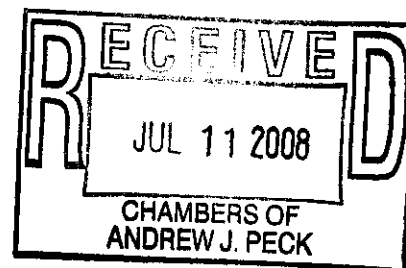


USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC#
DATE FILED: 7/16/08

90 Broad Street
3rd Floor
New York, NY 10004
212.683.7100
Fax 212.683.5555
www.gvlaw.com



BY FAX

July 9, 2008

Hon. Magistrate Judge Debra Freeman
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street, Room 525
Courtroom: 17A
New York, New York 10007

Hon. Magistrate Judge Andrew J. Peck
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street, Room 1370
Courtroom: 20D
New York, New York 10007

MEMO ENDORSED 7/16/08

Handwritten note: Please see memo referred to a Magistrate Judge. This, court should address its notes to the initial papers (Cott & Sullivan) - unless the party want to bring the case before a Magistrate Judge for all papers, pursuant to 28 USC § 636(c).

Re: Rudnick v. Nikki Beach Midtown
Docket No.: 07-CV-11460-DLC
Docket No.: 08-CV-03476-RJS

SO ORDERED:

Hon. Andrew Jay Peck
United States Magistrate Judge

Dear Hon. Magistrate Judge Freeman and Hon. Magistrate Judge Peck:

I represent the defendant Nikki Beach Midtown in this matter and am writing regarding an administrative issue which has arisen. I have spoken with my adversary prior to writing and we are in agreement on the issue. Unfortunately, we need judicial intervention to remedy the situation.

As the Court can see from above, two actions were filed. Both complaints are identical as well as the parties. The first action, bearing a 2007 docket number was transferred from the Federal District Court for the District of New Jersey, based upon motion practice by my office. The second was filed by plaintiff's counsel, who was under the impression the complaint needed to be re-filed in the Southern District of New York. A review of the Court's docket shows that our office filed an answer in the 2008 (second) action.

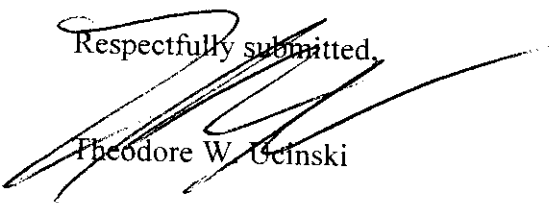
New Jersey Office
One University Plaza, Ste 302, Hackensack, NJ 07601
201.242.1011 Fax 201.242.8201

Plaintiff's counsel and I have spoken and agree that there is no need for these two duplicate actions to exist. It is respectfully requested the Court consolidate the second action (2008) into the first, which bears docket number 07-CV-11560-DLC. This will allow plaintiff's complaint to relate back to the original action filed in New Jersey for Statute of Limitation purposes and not require the defense to file another Answer under the 2007 docket number.

Naturally, the parties will be guided by the Court's wisdom if there is another way to effectuate the above result.

Thank you for your time and consideration.

Respectfully submitted,


Theodore W. Ucinski

TWU/cl

cc: MARK F. CASAZZA, ESQ.
RUDNICK ADDONIZIO & PAPPÀ
25 Village Court
Hazlet, New Jersey 07730
732-264-4400

FAX TRANSMITTAL SHEET



**ANDREW J. PECK
UNITED STATES MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT**

Southern District of New York
United States Courthouse
500 Pearl Street, Room 1370
New York, N.Y. 10007-1312

Fax No.: (212) 805-7933
Telephone No.: (212) 805-0036

Dated: July 16, 2008

Total Number of Pages: 3

TO	FAX NUMBER
Theodore W. Ucinski, Esq.	212-683-5555
Mark F. Casazza, Esq.	732-888-2780

TRANSCRIPTION:

MEMO ENDORSED 7/16/08

Neither of these cases were referred to a Magistrate Judge. Thus, counsel should address this matter to the District Judges (Cote & Sullivan) – unless the parties consent to having the cases before a Magistrate Judge for all purposes, pursuant to 28 USC § 636(c).

**Copies to: Magistrate Judge Debra Freeman
Judge Denise L. Cote
Judge Richard J. Sullivan**